



**Texas Department of Insurance**  
**Division of Workers' Compensation**  
Medical Fee Dispute Resolution, MS-48  
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1609

## MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

### PART I: GENERAL INFORMATION

Requestor Name and Address:  DOUGLAS M STAUCH MD P O BOX 741865 DALLAS TX 75374	MFDR Tracking #: M4-11-0935-02
	DWC Claim #:
	Injured Employee:
	Date of Injury:
Respondent Name and Carrier's Austin Representative Box #:  NEW HAMPSHIRE INSURANCE CO Box #: 19	Employer Name:
	Insurance Carrier #:

### PART II: REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: As taken from the Request for Reconsideration, "...TDI-DWC addresses Return to Work (RTW) and/or Evaluation of Medical Care (EMC) Examinations with Rule 134.202, Subsection (k). The Rule states the reimbursement shall be \$500.00 in accordance with subsection (i). This section also states testing shall be billed using the appropriate CPT codes & reimbursed in addition to the examination fee..."

Amount in Dispute: \$72.06

### PART III: RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "The carrier re-audited the bill on December 9, 2010 and determined that an additional \$72.24 should be paid to the provider..."

**Response Submitted by:** Flahive, Ogden & Latson, 504 Lavaca, Suite 1000, Austin, Texas 78701

### PART IV: SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Calculations	Amount in Dispute	Amount Due
04/14/2010	95851	(\$52.32 WC CF ÷ 36.0791 MC CF) x \$15.99 Participating Amount = \$24.07 x 3 Units = \$72.22	\$72.06	\$72.06
			<b>Total Due:</b>	<b>\$72.06</b>

### PART V: FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

#### Background

- 28 Tex. Admin. Code §133.307 sets out the procedures for health care providers to pursue a medical fee dispute.
- 28 Tex. Admin. Code §134.204 sets out the fee guidelines for the reimbursement of workers' compensation specific codes, services and programs provided on or after March 1, 2008.
- The services in dispute were reduced/denied by the respondent with the following reason codes:  
Explanation of benefits dated 04/28/2011
  - 97, R38 – Charge included in another charge or service. Included in another billed procedure.Explanation of benefits dated 12/09/2010
  - Additional payment on appeal/reconsideration

### Issues

1. Was the charge for testing included in another charge or service?
2. Is the requestor entitled to reimbursement?

### Findings

1. The injured employee was seen by the requestor for a Required Medical Examination for the Evaluation of Medical Care (EMC). The requestor was reimbursed by the respondent for the examination; however, was not reimbursed for the testing. 28 Tex. Admin. Code §134.204(k) states in pertinent part, "...the following shall apply to Return to Work (RTW) and/or Evaluation of Medical Care (EMC) Examinations. When conducting a Division or insurance carrier requested RTW/EMC examination, the examining doctor shall bill and be reimbursed using CPT Code 99456 with modifier 'RE'. ...Testing that is required shall be billed using the appropriate CPT codes and reimbursed in addition to the examination fee." The requestor billed for CPT code 99456-RE for the examination. Pursuant to 28 Tex. Admin. Code §134.204(k), the requestor also billed CPT code 95851 for the testing. CPT code 95851 is not included in another charge or service. According to 28 Tex. Admin. Code §134.203, the MAR for CPT 95851 is as follows:  $(\$52.32 \text{ WC CF} \div 36.0791 \text{ MC CF}) \times \$15.99 \text{ Participating Amount} = \$24.07 \times 3 \text{ Units} = \$72.22 \text{ MAR}$ . The respondent stated in their position summary to the Division, "The carrier re-audited the bill on December 9, 2010 and determined that an additional \$72.24 should be paid to the provider..." Also included was an EOB dated 12/09/2010 stating, "Additional payment on appeal/reconsideration." In March 2011, several attempts were made to the adjustor, Veta McCoy and calls were not returned. Per an e-mail conversation with the requestor on 7/11/2011, reimbursement has not been received.
2. Reimbursement of \$72.06 is recommended.

### Conclusion

For the reasons stated above, the division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$72.06.

### **PART VI: ORDER**

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby **ORDERS** the respondent to remit to the requestor the amount of \$72.06 plus applicable accrued interest per Division rule at 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

**07/22/2011**

\_\_\_\_\_  
Date

### **PART VII: YOUR RIGHT TO REQUEST AN APPEAL**

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with other required information specified in Division rule at 28 Texas Administrative Code §148.3(c).

Under Texas Labor Code Section 413.0311, your appeal will be handled by a Division hearing under Title 28 Texas Administrative Code Chapter 142 rules if the total amount sought does not exceed \$2,000. If the total amount sought exceeds \$2,000, a hearing will be conducted by the State Office of Administrative Hearings under Texas Labor Code Section 413.031.

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**